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Family Law 1960 Survey of New York Law: Part Four--Torts and Family Law

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FAMILY LAW

ROGER J. GOEBEL

THIS year was one of quiet evolution rather than of substantial progress in the area of family law. The event having the greatest effect on the average citizen was undoubtedly the raising of the marriage license fee in New York City to three dollars.¹ The most noteworthy of the other minor legislative changes were an egalitarian enactment forbidding wives from contracting to abrogate their duty of support of incapacitated husbands² and an authorization of resident parole centers for paroled juvenile delinquents whose home life is inadequate.³

I

MATRIMONIAL ACTIONS

Annulment.—The most novel decision this year was *Seagriff v. Seagriff*,⁴ which held that the open man and wife relations of petitioner and respondent from 1921 to 1957 did not constitute a valid common law marriage. Petitioner had been married to a man who had divorced her in 1928, and the court held that she could not thereafter have entered into a valid marriage without prior court authorization. This is clearly the law for subsequent ceremonial marriages,⁵ but the essence of a common law marital relation is the absence of legal formalities. This makes it a rather harsh and anomalous legalism to require a court order before entrance into an unceremonial marriage!

Contested annulments for fraud continue to bring reports of unsavory facts and dubious testimony. *Tacchi v. Tacchi*⁶ presented a classic situation of a "shotgun marriage" between a soldier stationed in North Carolina and his teen-age girl friend. When he subsequently discovered that his bride was not below the age of consent and the baby by blood tests could not be his, a sympathetic court granted him relief. The questionable character of testimony offered by a spouse in an uncontested annulment action is checked by the statutory require-

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¹ N.Y. Dom. Rel. Law § 15 (Supp. 1960).

² N.Y. Dom. Rel. Law § 51 (Supp. 1960).

³ N.Y. Soc. Welfare Law § 440 (Supp. 1960).

⁴ 21 Misc. 2d 604, 195 N.Y.S.2d 718 (N.Y.C. Dom. Rel. Ct. 1960). Cf. *Upton v. Upton*, 21 Misc. 2d 818, 195 N.Y.S.2d 421 (Sup. Ct., Queens Co. 1959) (same result achieved following Pennsylvania law).

⁵ Cf. *Matter of Estate of D'Alessio*, 196 Misc. 759, 92 N.Y.S.2d 540 (Surr. Ct., Bronx Co. 1949).

⁶ 195 N.Y.S.2d 892 (Sup. Ct., Nassau Co. 1959).

ment of corroboration.⁷ This limitation is especially salutary in actions based on breach of an alleged premarital agreement to have children.⁸ In another case, the first department, while holding that the doctrine of unclean hands (here in the form of premarital intercourse) would not prevent an annulment for fraudulent allegation of pregnancy, remanded for a new trial in view of the unsatisfactory character of the testimony.⁹

Separation and Divorce.—The reported actions for legal separation are primarily distinguished by the picayune, almost neurotic, nature of the complaints. One wife's bill of particulars included the refusal of her husband to take her home from a party or to get a baby sitter;¹⁰ another complained of interference by her father-in-law, since deceased;¹¹ a third wife continued cohabiting with her allegedly inhumane spouse, "strangely manifesting her estrangement to the extent of wanting her back scrubbed in the bathtub."¹² These flimsy complaints, reflecting our society's increasingly romantic idea of marriage as a "sometime thing," were deservedly rejected. Incompatibility of temperament, discoverable before marriage, continues—and properly—to be no ground for separation.¹³

In *Ziegler v. Ziegler*,¹⁴ *W* left *H* in January 1958, pending a trial of her action for separation on grounds of cruelty. This 1958 trial ended adversely to *W* and the court incidentally found—though the matter was not at issue—that *W*'s leaving of *H* was without just cause. In the instant action, both *W* and *H* sued for separation on grounds of abandonment, and the trial court found for *H*, citing the prior court's finding of fact. The first department treated the decision as a trial court finding of fact and affirmed. But as the dissent properly points out, the crucial issue was whether *W*'s leaving of *H* pending a trial was justified. The trial court holding of abandonment was based on the res judicata effect of the prior trial finding. Since an incidental finding of fact not in issue is not res judicata, this should have been held reversible error.¹⁵

⁷ N.Y. Civ. Prac. Act § 1143.

⁸ Cf. *Roger v. Roger*, 198 N.Y.S.2d 657 (Sup. Ct., Nassau Co. 1960); *Rausen v. Rausen*, 187 N.Y.S.2d 903 (Sup. Ct., Suffolk Co. 1959).

⁹ *Garfinkel v. Garfinkel*, 9 App. Div. 2d 98, 191 N.Y.S.2d 574 (per curiam), motion for leave to appeal denied, 10 App. Div. 2d 625, 197 N.Y.S.2d 429 (1st Dep't 1959).

¹⁰ *Anderson v. Anderson*, 16 Misc. 2d 713, 189 N.Y.S.2d 930 (Sup. Ct., N.Y. Co. 1959).

¹¹ *Mannes v. Mannes*, 187 N.Y.S.2d 869 (Sup. Ct., Suffolk Co. 1959).

¹² *Duffy v. Duffy*, 23 Misc. 2d 266, 267, 200 N.Y.S.2d 150, 152 (Sup. Ct., N.Y. Co. 1960).

¹³ *McClinton v. McClinton*, 200 N.Y.S.2d 987, 990 (Sup. Ct., Suffolk Co. 1960).

¹⁴ 10 App. Div. 2d 270, 198 N.Y.S.2d 875 (1st Dep't 1960) (mem.).

¹⁵ Cf. *Karameros v. Luther*, 279 N.Y. 87, 17 N.E.2d 779 (1938); *Silberstein v. Silberstein*, 218 N.Y. 525, 113 N.E. 495 (1916).

*Cornell v. Cornell*¹⁶ poses a nice problem in divorce law, but its resolution should have minor practical effect. A final divorce decree can only be entered three months after an interlocutory order. Since 1946, the final decree is entered as a matter of course by the court,¹⁷ but, prior to 1946, the final decree was obtained only on further motion by the plaintiff. In *Matter of Crandall*,¹⁸ decided in 1909, the Court of Appeals held that where plaintiff died a few months after the interlocutory order without moving for a final decree, a *nunc pro tunc* order granting the final decree as of plaintiff's death could not be entered. In *Cornell*, *W* secured an interlocutory order of divorce from *H-1* in 1915, but never moved for a final decree. *W* remarried in 1930, but *H-1* lived until 1938. To claim her widow's share upon the death of *H-2*, *W* sought a *nunc pro tunc* order entering the final decree as of 1915. The Court of Appeals, reversing the third department, granted this relief. Judge Van Voorhis reasoned that the substantive issue of the divorce had been resolved in the interlocutory order and the entry of the final decree was only a ministerial act, the omission of which could be remedied *nunc pro tunc*.

The policy of the decision accords with the present statutory regime, and similar cases are unlikely to occur. But the opinion is not without flaw. Although overruling *Crandall* in part, the court would apparently continue to hold that an omitted final decree could not be entered *nunc pro tunc* if one of the parties dies before the three months have elapsed, or if it is the defendant who is seeking the relief to validate a second marriage.¹⁹ Accordingly, an omitted pre-1946 final decree is not always to be deemed as entered of course, but only if the plaintiff wishes so to treat it. One wonders what the result would have been had the plaintiff in the instant case wished to disavow her marriage to *H-2* in order to claim as the widow of *H-1*. Would the omission of the 1915 final decree then have been deemed ministerial error or a deliberate substantive choice?

That the law on a related point has not changed is indicated by *Newins v. Newins*.²⁰ There a final divorce decree had been entered against *H* in 1936, but without any express prohibition against remarriage. *H* could therefore remarry provided he secured court

¹⁶ 7 N.Y.2d 164, 164 N.E.2d 395, 196 N.Y.S.2d 98 (1959).

¹⁷ N.Y. Civ. Prac. Act § 1176. It need hardly be said that a purported remarriage of a party within the three months between the interlocutory order and the final decree is utterly void. *Hess v. Dairymen's League Co-op. Ass'n*, 9 App. Div. 2d 585, 189 N.Y.S.2d 296 (3d Dep't 1959) (mem.).

¹⁸ 196 N.Y. 127, 89 N.E. 578 (1909).

¹⁹ *Cornell v. Cornell*, 7 N.Y.2d 164, 167, 164 N.E.2d 395, 398, 196 N.Y.S.2d 98, 102 (1959).

²⁰ 10 App. Div. 2d 856, 199 N.Y.S.2d 266 (2d Dep't 1960) (mem.).

permission.²¹ *H* remarried in 1959, and shortly thereafter died. *W-2's* application for a *nunc pro tunc* order granting *H* permission to remarry was denied on the authority of *Merrick v. Merrick*.²² Court permission to a divorced defendant to remarry thus remains a substantive, not a ministerial, act and its omission cannot be remedied *nunc pro tunc*.

Jurisdiction: Validity of Foreign Decrees.—The Court of Appeals came to the obvious conclusion that there is continuing jurisdiction over a presently nonresident defendant to collect arrearages under a New York support order.²³ The issue was clouded only because of some confusion over the propriety of service on defendant's former attorney, but the court found that defendant had in fact appeared by authorized counsel.

A neat problem was posed by *Detzel v. Detzel*:²⁴ What is the jurisdictional basis for an attack on an annulment procured by a now-deceased nonresident spouse? There can no longer be any personal jurisdiction; decedent left no estate in New York, and the marital status in theory never existed. In what appears to be a case of first impression,²⁵ the court reasoned that some element of the former marital status subsisted as a *res* in the guise of a judgment on the records, which can be corrected if erroneous. The decision seems sound in policy if awkward conceptually—an analogy may be seen in the statutory scheme of support permitted to an ex-spouse after the marriage has been annulled.²⁶

The sufficiency of the residence period used by a plaintiff in foreign ex parte divorces was successfully attacked in several cases.²⁷ In one, *Camp v. Camp*,²⁸ *H* admittedly was now a Florida domiciliary but the court held that he had not satisfied the Florida six-month residence requirement. *H* contended that even so the Florida decree should enjoy full faith and credit, but the court correctly observed that since collateral attack on residence was possible in Florida, New York could also collaterally attack the decree. Having established the

²¹ N.Y. Dom. Rel. Law § 8 (1957).

²² 266 N.Y. 120, 194 N.E. 55 (1934).

²³ *Haskell v. Haskell*, 6 N.Y.2d 79, 160 N.E.2d 33, 188 N.Y.S.2d 475 (1959).

²⁴ 22 Misc. 2d 76, 190 N.Y.S.2d 244 (Sup. Ct., Kings Co. 1959).

²⁵ Compare *Dye v. Dye*, 93 N.Y.S.2d 95 (Sup. Ct., Chautauqua Co. 1949), where an annulment from a deceased spouse was vacated, but the spouse died resident in New York and left an estate here.

²⁶ N.Y. Civ. Prac. Act § 1140-a.

²⁷ *Schepens v. Schepens*, 8 App. Div. 2d 856, 190 N.Y.S.2d 151 (2d Dep't 1959) (mem.); *Mincy v. Mincy*, 20 Misc. 2d 1035, 189 N.Y.S.2d 788 (Sup. Ct., N.Y. Co. 1959); *Camp v. Camp*, 21 Misc. 2d 908, 189 N.Y.S.2d 561 (Sup. Ct., Nassau Co. 1959).

²⁸ *Supra* note 27.

invalidity of the foreign divorce, the court awarded a separation to *W*.

A decided distinction now exists in New York between the respect accorded to Mexican divorces and that accorded to those of other states. The Court of Appeals' affirmance without opinion of *Alfaro v. Alfaro*²⁹ means that an ex parte Mexican divorce can now be challenged even by the spouse who obtained it. The same challenge would be barred by estoppel if the decree were of a sister state.³⁰ The second department extended the *Alfaro* rule to enable challenge of a Mexican decree, even if one spouse appeared in person and the other by attorney.³¹ In contrast, the Court of Appeals in *Boxer v. Boxer*,³² again without opinion, affirmed a holding that full faith and credit barred such a challenge by the spouse who appeared by attorney if the sister state rendering the decree would not allow such collateral attack. A third-party attack, as by a second spouse of one of the parties, is not possible against a sister state's decree (unless the sister state itself permits such attack),³³ but apparently is possible against a Mexican decree.³⁴ Of course, a spouse who appears by attorney may always subsequently attack the validity of the authorization of such appearance, with respect to both sister state and Mexican decrees.³⁵ The only practical result of all this is to further complicate our already over-complicated conflict of laws rules, and to spur parties who wish "quickie" or collusive divorces to secure them in Nevada or Alabama rather than in Mexico.

II

ALIMONY

Alimony.—The search continues for elusive "objective criteria" to determine the size of alimony awards amid "the present miasma of

²⁹ 7 N.Y.2d 949, 165 N.E.2d 880, 198 N.Y.S.2d 318 (1960) (mem.), affirming 5 App. Div. 2d 770, 169 N.Y.S.2d 943 (2d Dep't 1959) (mem.). For extended comment, see Grad, *Conflict of Laws*, supra pp. 1406-08.

³⁰ *Krause v. Krause*, 282 N.Y. 355, 26 N.E.2d 290 (1940).

³¹ *Heine v. Heine*, 10 App. Div. 2d 864, 199 N.Y.S.2d 788 (mem.), modified and motion for leave to appeal denied mem., 10 App. Div. 2d 967, 202 N.Y.S.2d 253 (2d Dep't 1960).

³² 7 N.Y.2d 781, 163 N.E.2d 149, 194 N.Y.S.2d 47 (mem.), affirming 7 App. Div. 2d 1001, 184 N.Y.S.2d 303 (2d Dep't 1959) (mem.). The *Boxer* holding is required by *Sherrer v. Sherrer*, 334 U.S. 343 (1948).

³³ *Johnson v. Muelberger*, 340 U.S. 581 (1951), followed in *Nitschke v. Nitschke*, 21 Misc. 2d 632, 195 N.Y.S.2d 224 (Sup. Ct., Queens Co. 1959).

³⁴ See *Weiler v. Weiler*, 23 Misc. 2d 248, 201 N.Y.S.2d 216 (Sup. Ct., Queens Co. 1960).

³⁵ See *Towers v. Towers*, 201 N.Y.S.2d 239 (Sup. Ct., Queens Co. 1960) (Alabama decree); *Oppenheimer v. Oppenheimer*, 20 Misc. 2d 248, 192 N.Y.S.2d 714 (Sup. Ct., N.Y. Co. 1959) (Mexican decree).

perjury, acrimony and hyperbole, which now envelops almost every alimony application.³⁶ The needs of the wife and the means of the husband provide the initial framework for the award, but the frequent reversals by the appellate division show the lack of precision this standard affords, even in relatively uncomplicated fact patterns.³⁷ The wife's independent means are a major factor in the equation, whether the husband's means be limited³⁸ or substantial.³⁹ An award will also be properly limited by the husband's new familial obligations.⁴⁰ On the other hand, the prior support status of the wife is significant, and the free-spending husband who supported his wife for years in "lush housewifery" may find his liability proportionately higher.⁴¹ This approach in one recent case helped produce the extraordinary result that the entire \$50 a week income of the husband was awarded as alimony!⁴² The result becomes understandable only with the knowledge that the couple had run through \$750,000 in the preceding eight years, and the husband, as heir to a large fortune, could rely on his mother's aid.

A complicating factor in the determination of alimony is the varying extent and often confused basis of the use of examinations before trial as to the husband's finances. A lucid opinion in *Hunter v. Hunter*⁴³ has set forth the standards to prevail in the first department. No examination before trial will be permitted if the right to support is contested or undetermined. Even when the only issue is the extent of support, an examination will be allowed only if (1) there is a genuine dispute as to the preseparation earnings of the husband and level of support of the wife; or (2) the husband's income is modest, and there is a dispute as to his postseparation ability to support the wife; or (3) in a rare case, where the wife is entitled to share in the progressive postseparation increase in the husband's earnings.

The second department last year seemingly suggested that it

³⁶ *Larkin v. Larkin*, 19 Misc. 2d 172, 176, 188 N.Y.S.2d 571, 574 (Sup. Ct., N.Y. Co. 1959) (Hofstadter, J.).

³⁷ See, e.g., *Kane v. Kane*, 10 App. Div. 2d 838, 201 N.Y.S.2d 127 (2d Dep't 1960) (mem.); *Burrowes v. Burrowes*, 10 App. Div. 2d 833, 199 N.Y.S.2d 951 (1st Dep't 1960) (mem.); *Plancher v. Plancher*, 9 App. Div. 2d 787, 193 N.Y.S.2d 309 (2d Dep't 1959) (mem.).

³⁸ *Brant v. Brant*, 23 Misc. 2d 646, 200 N.Y.S.2d 643 (Sup. Ct., N.Y. Co. 1960).

³⁹ *Rosen v. Rosen*, 18 Misc. 2d 257, 193 N.Y.S.2d 29 (Sup. Ct., N.Y. Co. 1959), aff'd mem., 10 App. Div. 2d 818, 199 N.Y.S.2d 435 (1st Dep't 1960).

⁴⁰ *Larkin v. Larkin*, 19 Misc. 2d 172, 188 N.Y.S.2d 571 (Sup. Ct., N.Y. Co. 1959).

⁴¹ *Snyder v. Snyder*, 196 N.Y.S.2d 421, 426 (Sup. Ct., N.Y. Co. 1959).

⁴² *Vought v. Vought*, 22 Misc. 2d 356, 195 N.Y.S.2d 521 (Sup. Ct., N.Y. Co. 1959).

⁴³ 10 App. Div. 2d 291, 193 N.Y.S.2d 1008 (1st Dep't 1960).

would be more liberal in allowing such examinations, though it still refuses them when support is contested.⁴⁴ But, as a supreme court decision in the third department indicates, that department and the fourth department will allow the examinations, even when the merits of the separation or divorce action are also contested.⁴⁵ A uniform and more liberal rule for all the departments to resolve this unnecessary confusion is long overdue.

Temporary Alimony and Counsel Fees: Enforcement Proceedings.

—May counsel for a wife sue the husband directly for counsel fees for his successful prosecution of a matrimonial action? The first department felt constrained by a 1912 precedent to hold that he may.⁴⁶ The decision appears erroneous. As Justice Valente, dissenting, and the lower court both indicate, subsequent decisions would appear to have long since eliminated the need for such an action. As a matter of sound policy, the provisions in Civil Practice Act Sections 1169 and 1170, giving the court which decided the matrimonial action power to award counsel fees, should be regarded as exclusive.

*Snow v. Snow*⁴⁷ poses an interesting question. A separation judgment called for a lump sum award in three installments. *H* died after paying the first installment, and *W* sued his estate for the balance. The second department denied recovery on the ground that such an award is modifiable until reduced to a final judgment under Civil Practice Act Section 1171-b and, hence, cannot be recovered in an action at law for an amount certain. The dissent argued that section 1171-b was never intended to make the theoretical modifiability of such an award a bar to this type of independent plenary action.

III

CHILDREN

Custody.—The use of confidential reports of psychologists and welfare workers by trial courts is giving rise to manifest appellate concern. In three cases the appellate division reversed for failure to allow proper controversion by counsel of such secret reports.⁴⁸ The

⁴⁴ *Campbell v. Campbell*, 7 App. Div. 2d 1011, 184 N.Y.S.2d 479 (2d Dep't 1959) (mem.).

⁴⁵ *Berlin v. Berlin*, 17 Misc. 2d 768, 187 N.Y.S.2d 553 (Sup. Ct., Broome Co. 1959).

⁴⁶ *Gallin v. Stafford*, 10 App. Div. 2d 915, 200 N.Y.S.2d 498 (1st Dep't 1960) (mem.), reversing 18 Misc. 2d 786, 188 N.Y.S.2d 137 (N.Y. City Ct. 1959), on the authority of *Horn v. Schmalholz*, 150 App. Div. 333, 134 N.Y. Supp. 652 (2d Dep't 1912).

⁴⁷ 8 App. Div. 2d 516, 190 N.Y.S.2d 902 (2d Dep't 1959).

⁴⁸ *People ex rel. Fields v. Kaufman*, 9 App. Div. 2d 375, 193 N.Y.S.2d 789 (1st Dep't 1959); *Herb v. Herb*, 8 App. Div. 2d 419, 188 N.Y.S.2d 41 (4th Dep't 1959) (per curiam); *People ex rel. Schlanger v. Schlanger*, 8 App. Div. 2d 801, 187 N.Y.S.2d

fourth department held that counsel for both parties could not even stipulate their consent to the use by the court of such confidential reports in formulating its decision.⁴⁹ However, the first department intimated that such a stipulation would be appropriate, and noted that in any event information from confidential reports could be used in the court's investigation, though not in its decision.⁵⁰

In custody awards, the most encouraging development is an increasing respect for comity. *Lang v. Lang*⁵¹ may be applauded as the soundest exercise of judicial discretion of the year. The mother had, in violation of a Swiss custody decree, taken the two children to New York. The father commenced proceedings for their return, and then, violating a New York temporary order, spirited one of the children back to Switzerland. Exercising judicious self-restraint, the court overlooked this contumacious behavior to give comity its due by returning the other child to the father in accordance with the decree of the domiciliary Swiss court. Almost simultaneously, a trial court in another case was ordering the return of two children to their father in Cuba in accord with the domiciliary Cuban court award.⁵²

Support.—The Court of Appeals split four-to-three on a question of legislative construction in *Department of Welfare v. Siebel*.⁵³ Chief Judge Conway for the majority construed several provisions of the Domestic Relations Court Act to warrant charging a stepmother with part of the bill to maintain her stepson at an institution for juvenile delinquents when the natural father was unable to pay the entire bill. Judge Fuld, in dissent, vigorously urged that the liability of a step-parent was purely secondary, so that no charge could be made while the natural parent paid part of the bill. Meanwhile, the fourth department held that the surrogate's court had neither statutory nor common law power to order reimbursement of the public welfare officer out of a juvenile delinquent's own estate.⁵⁴

Adoptions.—The best news this year was an excellent article

921 (1st Dep't 1959) (mem.). See also *Kessler v. Kessler*, 10 App. Div. 2d 935, 201 N.Y.S.2d 194 (1st Dep't 1960) (mem.) (lower court affirmed only because of other evidence in the record).

⁴⁹ *Herb v. Herb*, supra note 48.

⁵⁰ *People ex rel. Fields v. Kaufman*, 9 App. Div. 2d 375, 378, 193 N.Y.S.2d 789, 792-93 (1st Dep't 1959) (dictum).

⁵¹ 9 App. Div. 2d 401, 193 N.Y.S.2d 763 (1st Dep't 1959), aff'd mem., 7 N.Y.2d 1029, 166 N.E.2d 861, 200 N.Y.S.2d 71 (1960). See *Grad*, Conflict of Laws, supra pp. 1409-10.

⁵² *Pelaez v. Maxwell*, 23 Misc. 2d 423, 198 N.Y.S.2d 242 (Sup. Ct., Westch. Co. 1960).

⁵³ 6 N.Y. 2d 536, 161 N.E.2d 1, 190 N.Y.S.2d 683 (1959), appeal dismissed, 361 U.S. 535 (1960).

⁵⁴ *Matter of Brodine*, 10 App. Div. 2d 414, 200 N.Y.S.2d 199 (4th Dep't 1960).

co-authored by Justice Hofstadter and an attorney, Miss Shirley Levittan, pinpointing respects in which the law fails to give sufficient attention to the welfare of the child. Specifically they urged two reforms: (1) all private placement tending toward private adoptions (65% of the total in New York) should be supervised from the start by the court or other official agency; (2) comprehensive statutory modes of terminating parental rights when necessary prior to and apart from adoption should be established.⁵⁵

One rare mode of abrogating parental rights was used this year. A felon who loses his civil rights is not entitled to withhold his consent or even to receive notice of the adoption of his children.⁵⁶ But not every felon is totally indifferent to his children, and, at least in theory, one sentenced to a short term (three years in the noted case) is intended to be rehabilitated. This sweeping statute is a piece of anachronistic penal legislation that needs updating.

Parent-Child Suits.—Further erosion of outdated immunities in tort continues. One progressive supreme court held that a father may sue his own minor son derivatively for loss of services and medical injuries sustained where the negligent driving of such son injured another minor son.⁵⁷ Another held that a child, though barred from suing a parent for normal negligence, may sue for the wanton negligence of driving while drunk.⁵⁸ In the contract field, a suit to recover money expended in the education and promotion of child actor Eddie Hodges (of "Music Man" fame) failed because brought by a partnership, one of whose members was Eddie's father.⁵⁹ The court indicated that a suit in quasi-contract by the unrelated promoter himself would be allowed, since such training and promotion could be considered a "necessary" for such a precocious child's education.

⁵⁵ Hofstadter & Levittan, A Study in Adoption—Initial Investigation and Termination of Parental Rights (pts. 1-7), 142 N.Y.L.J. Nos. 58-64, p. 4, col. 1 (Sept. 21-25, 28-29, 1959).

⁵⁶ Matter of Anonymous, 17 Misc. 2d 691, 187 N.Y.S.2d 870 (Surr. Ct., Nassau Co. 1959); N.Y. Dom. Rel. Law § 111 (Supp. 1960).

⁵⁷ Becker v. Rieck, 19 Misc. 2d 104, 188 N.Y.S.2d 724 (Sup. Ct., Onondaga Co. 1959), 35 N.Y.U.L. Rev. 1209 (1960).

⁵⁸ Decker v. Decker, 20 Misc. 2d 438, 193 N.Y.S.2d 431 (Sup. Ct., Herkimer Co. 1959).

⁵⁹ Siegel & Hodges v. Hodges, 20 Misc. 2d 243, 191 N.Y.S.2d 984 (Sup. Ct., Queens Co. 1959), aff'd mem., 10 App. Div. 2d 646, 197 N.Y.S.2d 246 (2d Dep't 1960).